

CHESTERTON BOARD OF ZONING APPEALS
FEBRUARY 26, 2015
6:30 p.m.

The meeting was called to order at 6:30 p.m. Present were members F. Owens, T. Browne, J. Kowalski, and President R. Corder. Attorney J. Paulson was present as legal advisor. Town Engineer M. O'Dell and Town Manager B. Doyle were in attendance. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member F. Owens moved approval of the minutes from January 22, 2015 seconded by member J. Kowalski and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Aetna Development Corporation requesting a variance to reduce the size of off-street parking spaces (Length from 20 feet to 18 feet for a 75-90 degree parking angle) a second variance is requested to increase the cumulative number of square feet of sign area from 245 square feet to 361 square feet. **Petition 15-01** Attorney Todd Leeth of Hoepfner Wagner & Evans LLP was present as representation for the petitioner. Attorney Leeth said they are seeking two variance for property located at 301 Indian Boundary Rd. The site is Zoned B-3 with a single family home located on it. He said they have meet with staff and went over preliminary plans to determine the two variance requests. He said they anticipate needing more signage and also parking space sizes would be shortened. He respectfully requested the board to consider setting this item for public hearing at the March meeting.

Attorney J. Paulson advised the board that Aetna Development Corp. is not the petitioner. The property owner is the Janowski Trust who did give Attorney Leeth a POA to represent them. The petition would be amended to indicate the Janowski Trust as the petitioner additionally a copy of the deed would be submitted.

Attorney Leeth questioned whether Aetna Development Corp. could be a co-petitioner.

Attorney J. Paulson said the town has always required the petitioner to be the land owner.

Member J. Kowalski said they have a conceptual plan and nothing more. He explained that a variance is granted once a petitioner demonstrates a practical difficulty. He said you're asking for a variance on a blank piece of property. It's putting the cart before the horse. He explained that it would be difficult to vote when there is not enough information to set this item for public hearing. He said the Findings of Fact needed to be strengthened.

Member F. Owens commented that the Findings of Fact are currently written from the view point of the end user and not the petitioner.

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There was some additional discussion about the site containing its own storm water.

Member T. Browne commented that this does in fact seem to be a bit conceptual. There seems to be a lot of items ironed out between the petitioner and the town.

Attorney Leeth said he recognizes that there are a lot of items unresolved but before they resolve issues with engineered plans they would like to know how to design it. The size of the parking spaces is a big design issue. It dictates the size of drive isles the size of the building and the entire layout.

Member J. Kowalski said they are looking for something more concrete to make this site work for the end user. What if building A, B and C doesn't work, then you've changed the whole concept.

Attorney Leeth continued to explain the concept of the parking variance request.

Member J. Kowalski said there are other factors that need to be ironed out with the town before a variance can be granted.

Member F. Owens said that without drainage issues being resolved first there could be things that become out of play. Storm water retention with the swale of the existing railroad could make building C out of play. Those are the types of things that the board looks to the building department for before granting a variance.

Attorney Leeth said all he is asking for is the ability to shorten those parking spaces. I'm not asking for drainage resolutions, your staff and Ordinance are here to protect your town and neighbors. He did not understand the concern.

President R. Corder said if the variance is granted to the Janowski Trust and Aetna decides the site isn't going to work then a variance has still been granted on a parcel of property in the town.

Attorney Leeth suggested that a condition be attached to the granting of the variance.

Member F. Owens said what this board typically does not go the planning lengths. That's what we rely on staff and the council for.

It was the general consensus of the board that they would like to see issues regarding drainage, driveway cuts and sanitary sewer issues are ironed out before they could make a decision.

Town Engineer M. O'Dell said he could certainly work on the boards concerns to make them feel more comfortable making their decision.

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Member T. Browne called attention to page 25 where it was indicated that the petitioner would be looking to reduce the number of parking spaces for 94 to 73.

Attorney Leeth said that was not accurate. They would not need that variance.

There was some discussion whether the signage should be separate petition or if that variance request should have its own set of Findings of Fact.

Member F. Owens moved to continue this item until the March meeting seconded by member J. Kowalski and passed by unanimous voice vote.

Kenneth O. McAloon III Christine A. McAloon requesting a variance to construct a shed on inactive utility easement (one of the two utility easements on property) A second variance to place the shed at 4.3 feet from the rear property line. **Petition 15-02** Mr. McAloon was present. He told the board that the shed was already under construction with its placement being on an inactive easement. He said he had located done several years ago because they had considered installing a backyard drain. Currently there are about 22 willow trees along the back portion of the yard making that portion of the yard unbuildable. The need for the shed is to house mowers and children's bikes and yard toys which are currently kept in a very small two car garage. He said his neighbor has a very nice shed and had offered to help him with his shed he was under the notion that he did not need a building permit since the shed was not a permanent structure. Placement of the shed would be in line with his neighbors and located where a pine tree had died and provided an opening in the yard away from the willow trees. He commented that he is the last person in the neighborhood to install a shed but the first person to ask for a variance.

Attorney J. Paulson said he needs to complete the Findings of Fact.

Member F. Owens said the variance request would be to reduce a rear yard setback from 5 feet to 4.3 feet a reduction of .7 feet.

Member J. Kowalski questioned whether lot coverage would be an issue. He said the homeowner's deck might come into play as well because the shed needed to be at least 10 feet from the deck.

Town Engineer M. O'Dell asked that the petitioner also provide the distance from the side yard setback.

The information requested would need to be provided by March 9, 2015. Given the amount of new information necessary for the board to make its decision it was the general consensus of the board to continue the preliminary hearing.

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Member T. Browne moved to continue this item until the March 26, 2015 meeting seconded by member F. Owens and passed by unanimous voice vote.

PUBLIC HEARINGS- None

OLD BUSINESS- None

NEW BUSINESS

Members of the board questioned whether a fifth member for the BZA had been selected.

Attorney J. Paulson said that was in the works.

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member F. Owens moved adjournment seconded by member T. Browne and passed by unanimous voice vote. The meeting adjourned at 7:35 p.m.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

R. Corder, President